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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/529,415	03/29/2005	Christopher Frank McConnell	CFMC-0041	6755
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TRAN, PABLO N				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/529,415

**Applicant(s)**

MCCONNELL ET AL.

**Examiner**

Pablo N. Tran

**Art Unit**

2618

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-86 is/are pending in the application.
- 4a) Of the above claim(s) 29-70 and 84-86 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 and 71-83 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/S508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 71-83 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Regarding claim 71, the claimed subject matter, "The computer-readable storage medium" is directed to non-statutory subject matter.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 71-83 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claim 71, the claimed subject matter, "The computer-readable storage medium" was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art, at the time the application was filed.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 10, the claimed limitation, "receiving a second audio signal in the form of a second request from the user via a second communications device", render the claim indefinite. Is this the same user (see claim 1) that establish communication link with the computer by way of the remote communication device. If this is the same user, does the user establish the communication link with the computer by way of the remote communication device and the second communication device at the same time or at different time? Appropriate correction required.

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-28 and 71-83 are rejected under 35 U.S.C. 102(b) as being anticipated by Yaker (US Pat No. 5,950,167) in view of Applicant Admitted Prior Art (AAPR).

As per claims 1 and 71, Yaker disclose a method for interacting with a computer (Fig. 2/no. 1) wherein establishing a communications connection between the computer and a remote communications device (Fig. 2/no. 21); receiving, at the computer, an audio signal in the form of a request from a user of the remote communication device, wherein the audio signal is received via an internet telephonic connection; processing the conditioned audio signal to determine a desired function; and determining whether the desired function requires a spoken response and, if so, providing a spoken response to the user by way of the remote communications device and, performing the desired function responsive to the received audio signal (Fig. 5, col. 7/ln. 25-50).

Yaker does not explicitly utilize such software to conditioning the received audio signal to facilitate processing by a sound recognition module. However, such software is well known in the art (see AAPR, 0036). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention for Yaker to utilize such claimed software module, well-known, in order to allow the user such flexibility to program the audio device to output the spoken commands.

As per claims 2 and 72, the modified communication system of Yaker further disclose such email communication system and wherein the communications link is initiated by the user to review emails but not specifically the communication link is initiated by the computer. However, such is notoriously well known in the art that the

examiner takes Official Notice of such. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention for Yaker to utilize such teaching in order for the computer to alert the user of incoming emails.

As per claims 3 and 73, the modified communication system of Yaker further disclose wherein said establishing step is initiated by the user by way of the remote communications device signal (Fig. 5, col. 7/ln. 25-50).

As per claim 4, the modified communication system of Yaker further discloses a telephone communications link (Fig. 2).

As per claim 5 and 10-11, as stated above in claim 1, the modified communication system of Yaker further disclose such telephone communications link but not specifically a wireless communication link such as cellular or cordless. However, such is notoriously well known in the art that the examiner takes Official Notice of such. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention for Yaker to utilize such wireless communication to provide such flexibility and portability for the user.

As per claims 6-7 and 9, the modified communication system of Yaker further discloses Voice over Internet Protocol connection by way of a Session Initiation Protocol telephone (see AAPR, 0036).

As per claim 8, the modified communication system of Yaker further disclose a plurality of telecommunications networks (Fig. 2)

As per claims 12 and 74, the modified communication system of Yaker further disclose providing a spoken prompt to a user by way of the remote communications device (Fig. 5, col. 7/ln. 25-50).

As per claims 13 and 75, the modified communication system of Yaker further disclose providing a spoken prompt comprises selecting an output grammar; converting the output grammar to voice output; and transmitting the voice output to the user by way of the remote communications device (Fig. 5, col. 6/ln. 41-col. 7/ln. 50).

As per claims 14 and 76, the modified communication system of Yaker further discloses the audio signal is a spoken utterance (abstract).

As per claims 15 and 77, the modified communication system of Yaker further disclose wherein said processing step comprises comparing the spoken utterance to a plurality of grammars of possible spoken utterances; determining which of the grammars has been spoken by the user; and determining the desired function, wherein the desired function corresponds to the grammar (abstract, col. 6/ln. 41-col. 7/ln. 50).

As per claims 16 and 78, the modified communication system of Yaker further disclose the plurality of grammars of possible spoken utterances is stored in a computer file (col. 6/ln. 41-col. 7/ln. 50).

As per claims 17, 27, and 79, the modified communication system of Yaker further disclose a spreadsheet (Fig. 2).

As per claims 18-20 and 80-82, the modified communication system of Yaker further disclose such partitioning of the spreadsheet but not explicitly as claimed (spoken utterances from a first cell in the spreadsheet and the desired function from a

second cell in the spreadsheet). However, such modification to the spreadsheet, as claimed, can be easily attained and modified. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention for Yaker to modify the spreadsheet as claimed in order for the user to easily track, maintain, and program the spoken commands and functions.

As per claims 21 and 26, the modified communication system of Yaker further discloses a database (Fig. 2).

As per claims 22 and 28, the modified communication system of Yaker does not disclose a scheduling program. However, such is notoriously well known in the art that the examiner takes Official Notice of such. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention for Yaker to utilize such scheduling program method in order to alert the user of any new messages.

As per claims 23 and 83, the modified communication system of Yaker further disclose wherein performing the desired function responsive to the audio signal comprises locating data according to the audio signal; and wherein providing the spoken response comprises converting the data to a spoken format and transmitting the spoken format by way of the communications connection (abstract, col. 6/ln. 41-col. 7/ln. 50).

As per claim 24, the modified communication system of Yaker further disclose wherein performing the desired function responsive to the audio signal comprises modifying stored data according to the audio signal (abstract, col. 6/ln. 41-col. 7/ln. 50).



As per claim 25, the modified communication system of Yaker further disclose receiving new data from the user and recording the new data in a file (abstract, col. 6/ln. 41-col. 7/ln. 50).

### ***Response to Arguments***

9. Applicant's arguments with respect to claims 1 and 71 have been considered but are moot in view of the new ground(s) of rejection.

Regarding the 112 rejection, the Applicant stated that, "one skilled in the art would clearly understand the meaning of the term "computer-readable medium having computer-executable instructions" in view of its common use in the software community. In response to the Applicant, the examiner can not generalize that the computer is equivalent to the term "computer-readable medium having computer-executable instructions". Therefore, the rejection is proper.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

### ***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pablo Tran whose telephone number is (571)272-7898. The examiner normal hours are 9:30 -5:00 (Monday-Friday). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban, can be reached at (571)272-7899. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.
12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) System. Status information for Published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-directauspto.gov>. Should You have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (in USA or CANADA) or 571-272-1000.

January 21, 2009

Art Unit: 2618

/Pablo N Tran/

Primary Examiner, Art Unit 2618